

Chapter 162

SHADE TREE COMMISSION

- § 162-1. Purpose.
- § 162-2. Definitions.
- § 162-3. Shade Tree Commission.
- § 162-4. Powers and duties of Commission.
- § 162-5. Approval required.
- § 162-6. Duties and responsibilities.
- § 162-7. Cutting and removal of trees.
- § 162-8. Manner of trimming or pruning.
- § 162-9. Clearance of trees over sidewalks and streets.
- § 162-10. Removal of fallen trees and parts of trees.
- § 162-11. Repair or replacement of damaged trees.
- § 162-12. Removal of tree stumps.
- § 162-13. Branches not to obstruct street lights.
- § 162-14. Hazardous shade trees and branches.
- § 162-15. Replacement trees.
- § 162-16. Spacing and location of trees.
- § 162-17. Size specifications for tree replacement.
- § 162-18. Planting under existing utility lines.
- § 162-19. Root zone controls.
- § 162-20. Unnecessary harm to trees prohibited.
- § 162-21. Tree maintenance contractors.
- § 162-22. Exceptions permitted.
- § 162-23. Collection of costs for work done by Township.
- § 162-24. Authorized species of trees.
- § 162-25. Township maintenance.
- § 162-26. Violations and penalties.

(Adopted under Ordinance 06-03, February 21, 2006.)

§ 162-1. Purpose.

The purpose of this chapter is to establish a desirable amount of tree cover on public lands within the Township; maintain Township trees in a healthy and nonhazardous condition through good arboricultural practices; establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable suburban forest; promote conservation of tree resources; and select, situate and maintain street trees appropriately to minimize hazard, nuisance, hardscape damage and maintenance costs.

§ 162-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CALIPER – The diameter of a tree, measured at a point 6 inches above the ground line if the resulting measurement is no more than 4 inches. If the resulting measurement is more than 4 inches, the measurement is made at a point 12 inches above the ground line.

CARTWAY – That portion of a street or alley which is improved, designated or intended for vehicular use.

CROWN – the sum total of all the living branches of a tree.

DBH – Diameter breast height. Measurement made at 4½ feet above the ground line.

HARDSCAPE – The sidewalks, gutters and street surfacing materials that cover the soil surface, including but not limited to concrete, brick, stone pavers, asphalt, or other impervious pavements.

HAZARDOUS TREES/BRANCHES - Any dead, diseased, broken or mutilated trees, branches or parts of trees which are in a state of decomposition and pose a threat to public safety.

LARGE TREES - Designated as those attaining a height of 45 feet or more at maturity.

LINE OF SIGHT – An area of clear visibility within and defined by forming an imaginary triangle shaped by 75 foot long lines measured from the mid-point of the intersection of the streets and along the centerline of each crossing street.

MEDIUM TREES - Designated as those attaining a height of 30 feet to 45 feet at maturity.

PERSON - Any individual, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY OWNER – The owner of record of a parcel of property.

RIGHT-OF-WAY – The area that has been secured or reserved by the Township for streets, roads, or other roadway related purposes.

SHADE TREE - Any planted tree located within the right-of-way of the public streets and highways of the Township. “Shade tree” does not include vegetation growing naturally within the Township right-of-way.

SHADE TREE COMMISSION - The body that has jurisdiction over all shade trees.

SMALL TREES - Designated as those attaining a height of 15 feet to 30 feet at maturity.

STREET or HIGHWAY - The entire width of every municipal way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

TOWNSHIP – The Township of Lower Paxton.

TREE – A large perennial plant with one main trunk, one or many stems, and many branches.

TREE LAWN – That part of the street or highway right-of-way adjacent to developed property, not covered by sidewalk or other paving, lying between the sidewalk and that portion of the street or highway used for vehicular traffic.

§ 162-3. Shade Tree Commission.

- A. There is hereby created a commission to be known and designated as the “Shade Tree Commission.” The Commission shall consist of five members, all of whom shall be residents of the Township. All will serve without compensation.
- B. Members shall serve for a term of five years, one term to expire each year. On expiration of any term of a Commissioner, a successor shall be appointed by the Board of Supervisors to serve for a term of five years. Vacancies in the office of Commissioner shall be filled by the Board of Supervisors for the unexpired term.

§ 162-4. Powers and Duties of Commission.

- A. The Shade Tree Commission shall have sole custody and control of the shade trees in the Township and may authorize the abutting property owner to plant, remove, maintain and protect shade trees on the public streets within the municipality.
- B. The duties of the Commission shall be as follows:
 - 1. To study the problems and determine the needs of the Township regarding shade trees on the public streets, including the notification to property owners of any removals or maintenance needs as a result of an inspection of a shade tree.
 - 2. To recommend to the Board of Supervisors the type and size of trees to be planted upon the Township streets or parts thereof as designated.
 - 3. To assist the Board of Supervisors and Township officials in the dissemination of news and information regarding the selection, planting and maintenance of trees upon the streets and to make such recommendations from time to time to the Board of Supervisors as to desirable legislation concerning the shade tree program and activities for the Township.

4. To conduct regular and special meetings at which the subject of shade trees may be discussed by the members of the Commission, officers and personnel of the Township and all others interested in the shade tree program.
 5. To annually report in full to the Board of Supervisors the transactions and expenses of the Commission for the previous fiscal year.
 6. To authorize entities other than the abutting property owner to plant, remove, maintain and protect shade trees in the public streets within the municipality.
 7. To perform a periodic inspection of the condition of shade trees within the Township right-of-way.
 8. To perform timber sale inspections for the Township zoning office.
- C. The Commission shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth. The first meeting of each calendar year the Commission shall conduct a reorganization meeting where the Commissioners will elect a Chairperson and Vice Chairperson.

§ 162-5. Approval Required.

No person shall plant, cut, trim or remove any shade tree or parts thereof under the jurisdiction of the Township or fasten any sign, wire, rope or other material to, around or through any shade tree without written approval from the Shade Tree Commission. No electrical installations shall be attached to any shade tree nor shall excavating of trenches or tunnels be dug within 20 feet of any shade tree without first obtaining written permission from the Township.

§ 162-6. Duties and responsibilities of property owners.

- A. It is the duty and responsibility of the property owner or occupier of property abutting streets and highways in the Township to properly maintain any tree or trees in the tree lawn adjoining the property. This includes maintenance of trees and other vegetation in a manner so as not to create a safety or liability problem for motorists, pedestrian traffic or other activities within the right-of-way. The Township may require that the cost of tree planting, transplanting, trimming and removal of street trees in the tree lawns be paid by the owner of the real estate abutting the street where the work is to be done. In areas where tree lawns exist, the setback for tree planting shall be at a point halfway between the curb and sidewalk. However, no tree(s) shall be planted in a tree lawn within the line of sight.

- B. In rural or undeveloped areas where sidewalks and curb are not present, the right-of-way may vary in width but does exist. The abutting property owner shall be responsible for trees and other vegetation growing in the area between the edge of the cartway and the right-of-way line in such rural or undeveloped areas. Trees in these areas shall be pruned to conform with 162-8 and 162-9. Where no curbing exists, the setback for tree planting shall be eight feet from the edge of the cartway. However, no tree(s) shall be planted within the line of sight.
- C. All trees and other vegetation within the Township right-of-way must be pruned or trimmed in a manner to allow for full visibility of street signage and the minimum required line of sight.

§ 162-7. Cutting and removal of trees.

The Shade Tree Commission may, upon 30 days' written notice, require an abutting property owner to have cut and remove tree(s) within the right-of-way afflicted with any disease or infested with any insect that threatens to injure or destroy shade trees in the Township. Upon failure of any such owner to comply with such notice, the Township may undertake the work to be done and collect the costs thereof from the owner of the abutting property. Removal by the property owner of nondiseased trees or those not infested by insects shall not be permitted within the right-of-way unless, in the judgment of the Shade Tree Commission, one or more of the following criteria exist:

- A. A tree will sustain substantial damage due to the installation or repair of underground utilities where no other alternative, such as tunneling, sleeving or relocation, exists.
- B. A tree is causing traffic safety problems and pruning or other less invasive techniques would not eliminate the problems.
- C. A tree has caused substantial sidewalk and / or curb damage and repair or replacement of the sidewalk and / or curb would inflict serious root damage to the tree.
- D. The maintenance of overhead utilities would require that a tree be severely pruned resulting in the removal of 2/3 or more of the crown thereby causing irreparable damage to the tree.

§ 162-8. Manner of trimming or pruning.

All trimming and pruning of shade trees shall be done in a manner to ensure natural growth of such tree and a natural appearance, in accordance with national pruning standards. Pollarding or topping of trees (removal of 2/3 or more of the crown) is specifically prohibited.

§ 162-9. Clearance of trees over sidewalks and streets.

All branches of shade trees shall be kept trimmed in a manner to maintain a minimum height of 12 feet where they overhang a street and eight feet where they overhang a sidewalk. All shade trees standing on private property and having branches overhanging sidewalks or streets shall also be kept pruned by the owner so the lowest branches are in compliance with this section. In the event that the property owner neglects or refuses to maintain trees at the prescribed level within the time specified as notified in writing, the Township may perform such work at owner's expense, in the same manner as otherwise specified in this chapter.

§ 162-10. Removal of fallen trees and parts of trees.

In the event that a shade tree or its parts are felled by storm or other accident, the fallen tree and/or its felled parts shall be removed from the cartway of the street by the Township without charge. Property owners shall be responsible for any other removal or cleanup outside of the cartway of the fallen tree and/or its felled parts.

§ 162-11. Repair or replacement of damaged trees.

In the event that a shade tree is damaged, the Township may charge for repairs or replacement or make a charge for the appraised value of the tree against the person responsible for the damage of said tree.

§ 162-12. Removal of tree stumps.

After removal of a tree, the remaining stump shall be removed by the abutting property owner to a point not less than 6 inches below the grade of the surrounding area. If a replacement tree is to be planted at the same location, the stump will be removed to accommodate the replacement tree.

§ 162-13. Branches not to obstruct street lights.

The property owner shall trim or cause to be trimmed any tree branches so that they do not obstruct light from street lights. In the event that said work is performed by the Township, the abutting property owner may be responsible for the expense as otherwise specified in this chapter.

§ 162-14. Hazardous shade trees and branches.

Where hazardous shade trees or dead branches overhang the right-of-way of a street or otherwise exist within the right-of-way, the Shade Tree Commission may require the abutting property owner to cause them to be removed at their expense so as to maintain public safety within the right-of-way. In the event of an emergency or imminent hazardous situation, the Shade Tree Commission may require that the tree(s) be removed within 24 hours or less.

§ 162-15. Replacement trees.

As a condition to any request to remove any shade tree, the Shade Tree Commission may require that the property owner, at their own expense, plant another tree in place of the one removed and, in such case, direct the type, size and location of the tree to be planted and the season within which the work shall be done. A replacement tree shall be planted within six months of removal of the previous tree and the Shade Tree Commission should be notified when the work is completed so the file may be closed.

§ 162-16. Spacing and location of trees.

Spacing between newly planted shade trees shall not be less than 25 feet nor more than 40 feet and may vary with species of tree(s) being planted. In addition to the restrictions established under 162-6 of this chapter, no shade tree shall be planted less than 15 feet from a fire hydrant, or light standard.

§ 162-17. Size specifications for tree replacement.

Tree replacement size shall be measured at a point six inches above planting level. All trees shall be of ½ inch to two inches in caliper at this point and shall have no branches below a height of five feet measured from ground level.

§ 162-18. Planting under existing utility lines.

All trees planted under overhead utilities shall be a species which will not obstruct or have the potential to grow into or come into contact with the wires. They shall be small trees or medium trees according to utility height and shall be specified by the Shade Tree Commission.

§ 162-19. Root zone controls.

The Commission may in some cases require root control devises or material to minimize the effect of root growth on sidewalks, curbs or underground utilities. The need and type of control shall be prescribed by the Commission where necessary.

§ 162-20. Unnecessary harm to trees prohibited.

No person shall break, injure, mutilate, kill or destroy any shade tree or set fire to or permit fire to burn any shade tree. No person shall allow any toxic chemical, liquid or solid, to empty, drain, or seep onto shade trees or their root systems. No person shall permit any gas pipe or main to leak into the root zone of said tree.

§ 162-21. Tree maintenance contractors.

All tree maintenance contractors who trim, remove or otherwise maintain trees located within the Township right-of-way shall possess general liability insurance coverage with a policy limit of not less than \$500,000 for each occurrence.

§ 162-22. Exceptions permitted.

The Shade Tree Commission shall have the power in appropriate cases to permit deviations from strict compliance with this chapter whenever, due to special circumstances, literal enforcement of this chapter would be impossible, impractical, or not in the best interest of the Township or the trees.

§ 162-23. Collection of costs for work done by Township.

Payment of costs for work done by the Township shall be due and payable 30 days after proper invoice by the Township to the property owner. If the property owner does not make payment within 30 days, said costs shall be considered as an assessment to the property and the Township Solicitor shall file a lien against the property to ensure payment as may be provided by law.

§ 162-24. Authorized species of trees.

The planting of any species of tree within Township right-of-way other than those approved by the Shade Tree Commission is prohibited. A list of approved trees shall be maintained by the Commission and made available to the public through the Township Office. Any person desiring to plant a tree(s) species that does not appear on the list, within the Township right-of-way, shall make application to the Shade Tree Commission for approval of the desired species.

§ 162-25. Township maintenance.

The Township, at its sole discretion, shall have the authority to plant, trim, remove or otherwise maintain any shade trees at its expense or the expense of the affected property owner.

§ 162-26. Violations and penalties.

Any person or persons, firm or corporation who or which violate any of the provisions of this chapter shall, upon conviction, be sentenced to pay a fine of not less than \$50 nor more than \$600, plus the costs of prosecution. Each day during which the violation occurs or persists shall constitute a separate offense.